

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1611042639>

Meeting ID: 161 104 2639

Password: 711531

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

8:17-14535 Prime Metals U.S.A., Inc.

Chapter 7

Adv#: 8:19-01213 Marshack v. An et al

#1.00 CON'TD STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recover of Constructive Fraudulent Transfers; 2. Avoidance and Recovery of Property of the Bankruptcy Estate; 3. Avoidance of Preferential Transfers; and 4. Recovery of Avoided Transfers

FR: 1-30-20; 3-19-20; 5-21-20; 7-23-20; 10-22-20; 1-21-21; 4-8-21; 5-20-21; 8-19-21;11-18-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Only Defendant Byungwhan Chung, an individual, filed 3/25/2021. Order Approving Stipulation to Dismiss Adversary Proceeding Entered 12/2/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Only Defendant Byungwhan Chung, an individual, filed 3/25/2021 . Order Approving Stipulation to Dismiss Adversary Proceeding Entered 12/2/2021 - td (12/2/2021)

Tentative Ruling:

January 30, 2020

Joint status report not timely filed.* Parties must appear and advise the court re the status of this matter.

* The Stipulation and Order [docket #s 5 & 6] only extended the answer date -- did not include an extension of the deadline to file a status report.

Note: Appearances at the hearing are required.

May 21, 2020

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

Continue the status conference to July 23, 2020 at 9:30 a.m.; updated status report must be filed by July 16, 2020 if the adversary is still pending by such date.

Note: Appearances at this hearing are not required.

January 21, 2021

Continue status conference to April 8, 2021 at 9:30 a.m.; updated status report must be filed by March 25, 2021 if the adversary is still pending by such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

April 8, 2021

Continue status conference one final time to May 20, 2021 at 9:30 a.m.; updated status report must be filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to July 1, 2021 at 9:30 a.m. Court to issue an Order To Show Cause why this adversary should not be dismissed for lack of prosecution to be heard on July 1, 2021 at 9:30 a.m.

Basis for Tentative Ruling:

In his status report filed for the April 21, 2021 hearing, Plaintiff represented

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

that this matter would be resolved. No motion for approval of compromise has been filed in the main case and an updated Status Report was not timely filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing not required and Plaintiff shall serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

Minho An

Represented By
Michael H Yi

Byungwhan Chung

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Ronald S Hodges
Robert P Goe
Ryan S Riddles

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Laila Masud
David M Goodrich
Robert P Goe

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

8:17-14535 Prime Metals U.S.A., Inc.

Chapter 7

Adv#: 8:19-01218 Marshack v. Kim et al

#2.00 CONTD PRE-TRIAL CONFERENCE RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust **(as to Defendant Minho An)**

FR: 2-6-20; 10-8-20; 1-21-21; 4-22-21; 5-20-21; 8-19-21; 11-18-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Only Defendant Ik Dong Kim, aka Kim Zk Dong, an individual, with Prejudice, filed 2/3/2021. Order Approving Stipulation to Dismiss Adversary Proceeding Entered 12/2/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Only Defendant Ik Dong Kim, aka Kim Zk Dong, an individual, with Prejudice, filed 2/3/2021. Order Approving Stipulation to Dismiss Adversary Proceeding Entered 12/2/2021 - td (12/2/2021)

Tentative Ruling:

February 6, 2020

Discovery Cut-off Date:	June 1, 2020
Deadline to Attend Mediation:	June 15, 2020
Pretrial Conference Date:	July 16, 2020 at 9:30 a.m.
(XX)	
Deadline to Lodge Joint Pretrial Stipulation:	July 6, 2020

Special Note: The joint status report filed 1/28/20 provides very little information regarding the status of the case, why there is no discovery schedule, and why Plaintiff is waiting for non-answering defendants to participate. Per the docket, only one defendant, Minho An, was granted an extension of time to January 7, 2020 to file an answer. An's answer was timely filed.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.

May 20, 2021

Continue Pretrial Conference to July 1, 2021 at 9:30 a.m. Court to issue an Order To Show Cause why this adversary should not be dismissed for lack of prosecution to be heard on July 1, 2021 at 9:30 a.m.

Basis for Tentative Ruling:

Prior to the April 21, 2021 Pretrial Conference, Plaintiff represented that this matter would be resolved. No motion for approval of compromise has been filed in the main case and a Pretrial Stipulation was not timely filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing not required and Plaintiff shall serve notice of the continued hearing date/time.

August 19, 2021

Appearance at this Status Conference is required. Plaintiff must appear and explain why the settlement has not been approved and/or completed after several months.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

Defendant(s):

Ik Dong Kim

Pro Se

Gill Su Sun

Pro Se

Minho An

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Ronald S Hodges
Robert P Goe
Ryan S Riddles

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Laila Masud
David M Goodrich
Robert P Goe

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01065 Kosmala v. U.S. Customs and Border Protection

#3.00 CON'TD STATUS CONFERENCE RE: Complaint: (1) To Avoid preferential transfer pursuant 11 U.S.C. section 547; (2) For recovery of avoided transfer under 11 U.S.C. section 550; (3) To preserve transfer for the benefit of the Estate pursuant to 11 U.S.C. section 551; (4) Turnover of the property of the Estate pursuant to 11 U.S.C. section 542
[Set per another summons issued on 7/7/2020]

FR: 9-29-20, Rm 5D; 10-1-20; 12-10-20; 2-11-21; 4-15-21; 6-17-21; 9-30-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/21/2022 AT 9:30 A.M.,
Per Order Entered 1/3/2022 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 4/21/2022 at 9:30 a.m., Per
Order Entered 1/3/2022 (XX) - td (1/3/2022)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

U.S. Customs and Border Protection

Pro Se

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Jeffrey I Golden
Reem J Bello
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT... Alpha Floors, Inc.

Chapter 7

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

8:20-11493 Kourosh Baniassad

Chapter 7

Adv#: 8:20-01111 Razaghi v. Baniassad et al

#4.00 PRE-TRIAL CONFERENCE RE: Complaint by Kamran Razaghi against Kourosh Baniassad, Ida Baniassad. false pretenses, false representation, actual fraud)), (68 (Dischargeability - 523(a)(6), willful and malicious injury)), (67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny))

FR: 10-22-20; 8-12-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/31/2022 AT 9:30 A.M.,
Per Order Entered 9/13/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-Trial Conference Continued to 3/31/2022 at 9:30 a.m.,
Per Order Entered 9/13/2021 (XX) - td (9/13/2021)**

Tentative Ruling:

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Tentative Schedule:

Discovery Cut-off Date:	Mar. 15, 2021*
Deadline to Attend <u>Mandatory</u> Mediation:	Feb. 1, 2021
Pretrial Conference Date:	May 6, 2021 at 9:30 a.m.
Deadline to File Pretrial Stipulation:	Apr. 22, 2021

* Plaintiff's unilateral status report suggested a discovery cut-off date of July 2021, which does not appear to be warranted under the circumstances.

Special Note to Plaintiff's Counsel: Though this action appears to be one

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT... Kourosh Baniassad

Chapter 7

under 11 USC 523 (nondischargeability), the Third Cause of Action appears to assert a crime under California law, which is beyond the scope of the jurisdiction of this court.

Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.

Party Information

Debtor(s):

Kourosh Baniassad

Represented By
Kaveh Ardalan

Defendant(s):

Kourosh Baniassad

Pro Se

Ida Baniassad

Pro Se

Joint Debtor(s):

Ida Baniassad

Represented By
Kaveh Ardalan

Plaintiff(s):

Kamran Razaghi

Represented By
Peter R Afrasiabi

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

8:21-10323 Andrew Michael Murphy

Chapter 7

Adv#: 8:21-01021 Murphy v. Granite State Management et al

#5.00 CONT'D STATUS CONFERENCE RE: Complaint/Motion to Include Student Loan and Bar Study Loan in Discharge §523(a)(8) (as to Defendant Granite State Management ONLY)

(Another Summons Issued 8-16-21)
FR: 11-4-21; 12-9-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Default Judgment
Against Defendant Granite State Management Entered 12/20/2021**

Courtroom Deputy:

**OFF CALENDAR: Default Judgment Against Defendant Granite State
Management Entered 12/20/2021 - td (12/20/2021)**

Tentative Ruling:

November 4, 2021

Continue the Status Conference to December 9, 2021 at 9:30 a.m. A Joint Status Report must be filed by December 2, 2021. Defendant Sallie Mae must either file an answer or other responsive pleading no later than November 18, 2021. Both parties to appear and advise the court why it should not impose sanctions in the amount of \$100.00 against each party for the failure to timely file a Joint Status Report in accordance with Local Bankruptcy Rule 7016-1.

Basis for Tentative Ruling:

1. Neither Plaintiff or Defendant has filed a proper Joint Status Report.
2. Defendant Sallie Mae filed an "opposition" in which it appears to improperly request relief from this court in the form of dismissal of the adversary proceeding. As Defendant must know, the court will not grant *any*

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

CONT...

Andrew Michael Murphy

Chapter 7

relief without a properly filed motion that is timely served on the opposing with notice of the deadline to file an opposition in accordance with applicable rules. As the relief sought in the opposition is not properly before the court, *it will not be considered or discussed in substance* at this Status Conference.

3. The court may deem a writing filed by a *pro se* litigant to be a complaint.

December 9, 2014

In light of pending motion for default judgment as to Granite State Management, continue the Status Conference to January 13, 2022 at 9:30 a.m.; an updated Status Report must be filed by January 9, 2022 if a default judgment has not been entered by such date. (XX)

Note: If Plaintiff accepts the tentative ruling, appearance at this hearing is not required. Plaintiff to serve notice of the continued Status Conference Date to remaining defendant Granite State Management.e

Party Information

Debtor(s):

Andrew Michael Murphy	Pro Se
-----------------------	--------

Defendant(s):

Granite State Management	Pro Se
--------------------------	--------

Sallie Mae	Pro Se
------------	--------

Plaintiff(s):

Andrew Murphy	Pro Se
---------------	--------

Trustee(s):

Weneta M.A. Kosmala (TR)	Pro Se
--------------------------	--------

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

9:30 AM

8:21-11858 Chae Ran Song

Chapter 7

Adv#: 8:21-01099 NuVision Federal Credit Union v. Song

**#6.00 STATUS CONFERENCE RE: Complaint to Determine the Dischargeability of
Debt Pursuant to 11 U.S.C. §523(a)(2)**

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Continue the Status Conference to February 10, 2022 at 10:30 a.m., same date/time as hearing on Defendant's motion to set aside entry of default. Updated Status Report not required.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Chae Ran Song	Pro Se
---------------	--------

Defendant(s):

Chae Ran Song	Pro Se
---------------	--------

Plaintiff(s):

NuVision Federal Credit Union	Represented By Alana B Anaya
-------------------------------	---------------------------------

Trustee(s):

Karen S Naylor (TR)	Pro Se
---------------------	--------

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

8:18-13556 Nam Howell

Chapter 13

#7.00 CON'T Hearing RE: Amended Motion for relief from the automatic stay
[REAL PROPERTY]

SPECIALIZED LOAN SERVICING LLC

VS.

DEBTOR

FR: 11-18-21; 12-16-22

Docket 67

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay Under 11 U.S.C. §362 (Settled by
Stipulation) Entered 12/17/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay Under 11 U.S.C. §362 (Settled by Stipulation) Entered 12/17/2021 -
td (12/17/2021)**

Tentative Ruling:

November 18, 2021

Movant needs to explain the impact of the 12-month Covid-19 Payment Agreement on Debtor's delinquency. If the parties would like more time to explore a possible adequate protection resolution, the hearing may be continued by requesting a continuance during the court clerk's calendar roll call just prior to the hearing. Available hearing dates: Dec. 2, Dec. 9, Dec. 16, 2021 at 10:00 a.m. Additional dates may be available.

December 16, 2021

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

CONT... Nam Howell

Chapter 13

Deny motion as moot in light of the court's order approving the Covid-19 payment deferral entered on 12/14/21.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Nam Howell

Represented By
Rabin J Pournazarian

Movant(s):

Specialized Loan Servicing LLC

Represented By
Natalie E Lea
Austin P Nagel

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

8:18-14035 William Raymond Harvey and Akram Naieharvey

Chapter 13

#8.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]

SELECT PORTFOLIO SERVICING INC.

VS.

DEBTORS

FR: 11-4-21; 12-9-21

Docket 128

***** VACATED *** REASON: CONTINUED TO 2/24/2022 AT 10:00 A.M.,
Per Order Entered 1/12/2022 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 2/24/2022 at 10:00 a.m., Per Order
Entered 1/12/2022 (XX) - td (1/12/2022)**

Tentative Ruling:

November 4, 2021

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court
appearance by the Movant is required. Should an opposing party file a
late opposition or appear at the hearing, the court will determine
whether further hearing is required and Movant will be so notified.***

December 9, 2021

Movant to advise the court re the status of this matter. If additional time is
needed, the hearing may be continued to January 6, 2022 or January 13,

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

CONT... **William Raymond Harvey and Akram Naieharvey** **Chapter 13**
2022 at 10:00 a.m. by requesting a continuance during the clerk's calendar roll
call just prior to the hearing.

Party Information

Debtor(s):

William Raymond Harvey

Represented By
Farbood Majd

Joint Debtor(s):

Akram Naieharvey

Represented By
Farbood Majd

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

8:19-13761 Paul Edwin Baloloy

Chapter 13

#9.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WELLS FARGO BANK, N.A.

VS.

DEBTOR

Docket 63

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay (Settled by Stipulation) Entered 1/10/2022**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay (Settled by Stipulation) Entered 1/10/2022 - td (1/10/2022)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Edwin Baloloy

Represented By
Julie J Villalobos

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

8:20-12405 James R. Cochrun and Aurora Christina Carbonara

Chapter 13

#10.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

DISCOVER BANK

VS.

DEBTOR

Docket 57

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay Under 11 U.S.C. §362 (Settled by
Stipulation) Entered 12/29/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay Under 11 U.S.C. §362 (Settled by Stipulation) Entered 12/29/2021 -
td (12/29/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James R. Cochrun

Represented By
Holly Roark

Joint Debtor(s):

Aurora Christina Carbonara

Represented By
Holly Roark

Movant(s):

Discover Bank

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

CONT... James R. Cochrun and Aurora Christina Carbonara

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

8:21-11723 Advantage Manufacturing, Inc.

Chapter 11

#11.00 CON'TD Hearing RE: Motion for relief from automatic stay
[ACTION IN NON-BANKRUPTCY FORUM]

ZHEJIANG CRAFT FAB ELECTRIC CO., LTD.

VS.

DEBTOR

FR: 10-14-21; 11-18-21; 12-2-21

Docket 61

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 14, 2021

Grant the motion for the reasons and based upon the legal analysis stated in the Motion; overrule Debtor's objections as unpersuasive.

November 18, 2021

The parties are to advise the court regarding the status of this matter. If more time is needed, the parties may request a final continuance to December 16, 2021 at 10:00 a.m. during the court clerk's calendar roll call prior to the hearing.

December 2, 2021

No tentative ruling. Disposition will depend on outcome of plan confirmation

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

CONT... **Advantage Manufacturing, Inc.**
hearing.

Chapter 11

January 13, 2022

In light of the confirmation of Debtor's plan and the fact that Debtor has not objected to Movant's claim, deny the Motion as moot.

Note: If the parties accept the tentative ruling, appearances at this hearing are not required and Movant shall lodge an order consistent with the same.

Party Information

Debtor(s):

Advantage Manufacturing, Inc.

Represented By
Michael G Spector
Vicki L Schennum

Movant(s):

Zhejiang Crafab Electric Co., Ltd.

Represented By
Larry W Gabriel

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

8:21-12901 Roberta Marie Fierro

Chapter 13

#12.00 Hearing RE: Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Grant the Motion

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Party Information

Debtor(s):

Roberta Marie Fierro

Represented By
Joshua L Sternberg

Movant(s):

Roberta Marie Fierro

Represented By
Joshua L Sternberg
Joshua L Sternberg

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:00 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

#12.10 Hearing RE: Debtors' Emergency Motion for Entry of Order Modifying Bidding Procedures for Sale of Real Property Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, and Certain Dates and Deadlines Related Thereto

Docket 253

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Grant motion if unopposed.

Party Information

Debtor(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y. Oh
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:10-28213 Patricia J. Zantos

Chapter 13

Adv#: 8:21-01100 Zantos v. ECI Financial Corporation et al

#13.00 Hearing RE: Plaintiff's Motion for Service by Publication

Docket 5

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Grant the Motion.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Party Information

Debtor(s):

Patricia J. Zantos

Represented By
David M Goodrich

Defendant(s):

ECI Financial Corporation

Pro Se

DEAN REVOCABLE TRUST

Pro Se

Plaintiff(s):

Patricia J. Zantos

Represented By
David M Goodrich

Trustee(s):

Amrane (SA) Cohen (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT...

Patricia J. Zantos

Amrane (SA) Cohen (TR)

Chapter 13

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:13-12993 Yea Sung Min and Jung Ki Min

Chapter 7

#14.00 Hearing RE: Debtors' Motion to Avoid Lien Under 11 U.S.C. Section 522(f) (real Property) [Creditor Name: Chapman Recovery Corp]

Docket 28

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Continue the hearing to March 3, 2022 at 10:30 a.m.; creditor Chapman Recovery Corp must file any supplemental pleading by or before February 17, 2022 regarding the value of the property as of April 4, 2013; Debtor to file any reply by February 24, 2022. Debtor must provide access to the property within 2 business days of a request to Debtor's counsel.

Basis for Tentative Ruling:

1. Service: The court will deem service of the Motion to be proper because a) Chapman Recovery Corp ("Creditor") is not listed on the California Secretary of State website, b) the only available address was Creditor's state court attorney, c) even the Opposition does not provide service information for Creditor, and d) a timely objection was filed.
2. Laches: This argument is not persuasive, especially in light of Debtors' explanation for not filing the motion sooner.
3. Appraisal: The hearing is being continued to allow Creditor an opportunity to obtain an appraisal of the property as of April 4, 2013.
4. Exemption: Schedule C has been amended to address the argument made in the opposition.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room 5A

10:30 AM

CONT... Yea Sung Min and Jung Ki Min

Chapter 7

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Yea Sung Min

Represented By
Andrew S Cho
Young K Chang

Joint Debtor(s):

Jung Ki Min

Represented By
Andrew S Cho
Young K Chang

Trustee(s):

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:18-10548 Lenore LuAnn Albert-Sheridan

Chapter 7

#15.00 Hearing RE: Debtor's Motion for Order Disallowing Claims Pursuant to 11 U.S.C. 502:

Claim 10-1 Internal Revenue Service \$4,121.47

Claim 21-1 Friendly Ford \$11,044.43

Claim 22-1 Samuels, Green & Steele \$8,929.27

Docket 656

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Overrule all three objections: Claim No. 10-1 (IRS) is overruled as moot in light of amended proof of claim filed after the objection was filed; Claim No. 21-1 (Friendly Ford) and Claim No. 22-1 (Samuels, Greene & Steele) on the basis of insufficient evidence of standing to file objections, among other reasons.

Basis for Tentative Ruling:

Procedural Issue: LBR 3007-1(a)(3) requires that a separate objection must be filed to each proof of claim unless one of the exceptions in LBR 3007-1(a)(3)(A-C) applies. None of the exceptions apply here. Accordingly, the three objections should have been filed separately and not in one pleading.

IRS Claim: As the objection has been mooted (and withdrawn), the court will issue no rulings regarding the IRS' amended claim. Should Debtor file a another objection, Debtor is admonished to follow all applicable service rules

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... **Lenore LuAnn Albert-Sheridan**
re service on the IRS.

Chapter 7

Standing:

Debtor argues that she has standing citing two Ninth Circuit Bankruptcy Appellate Panel ("BAP") cases. However, *In re Shoemaker* is distinguishable from the case here because the debtor in that case was not receiving a discharge. *In re Shoemaker*, No. 1:14-BK-15182-GM, 2020 WL 6821715, at *6 (B.A.P. 9th Cir. Nov. 20, 2020). If that debtor did not object, all the timely filed claims would be deemed allowed and entitled to a res judicata effect, which would cause the debtor "injury in fact." *Id.* That is not the case here, Debtor received her discharge on February 26, 2019. Debtor also cites *In re Weitzman* because there was documentation of assets being available for distribution. However, the Ninth Circuit BAP notes that the "parties indicated at argument that it may be a surplus case." *In re Weitzman*, No. BAP.CC-05-1155-BKJ, 2006 WL 6811029, at *3 (B.A.P. 9th Cir. Mar. 13, 2006). While Debtor provides evidence that this is an asset case via the "Notification of Asset Case" sent by the Trustee [dkt. 241], Debtor does not provide any evidence of a surplus. On the contrary, On January 11, 2022, the Trustee filed a Final Report & Account which indicates a distribution to creditors of only 10% of allowed claims. [Dkt 676] Thus, there appears to be no chance this case will be a surplus, giving Debtor standing to file objections to claims. Debtor has the burden of establishing standing and has failed to meet that burden.

The court further notes that as to Friendly Ford, the claim was timely filed. The claims bar date notice was October 29, 2018 [Dkt.241]. The claim was filed on October 23, 2018. In addition, there is no evidence that Friendly Ford was a party to the settlement between the Trustee and Ford Motor Credit.

Party Information

Debtor(s):

Lenore LuAnn Albert-Sheridan

Pro Se

Trustee(s):

Jeffrey I Golden (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT...

Lenore LuAnn Albert-Sheridan

Chapter 7

Jonathan A. Michaels
Eric P Israel
Aaron E DE Leest
Sonia Singh

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:18-12606 Michelle Renee Gillespie

Chapter 13

#16.00 Hearing RE: Chapter 13 Trustee's Notice of Final Cure Payment

Docket 171

Courtroom Deputy:

**SPECIAL NOTE: Debtor's Voluntary Withdrawal of ECF No. 172, filed
1/12/2022 - td (1/12/2022)**

Tentative Ruling:

January 13, 2022

Off calendar: Debtor has withdrawn the opposition to the Trustee's Notice of Final Cure Payment.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Michelle Renee Gillespie

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:18-12967 Lillian Sikanovski Dulac

Chapter 7

#17.00 Hearing RE: Chapter 7 Trustee's Motion to Authorize Disbursement of Co-Owner's Net Sale Proceeds

Docket 237

***** VACATED *** REASON: CONTINUED TO 2/10/2022 AT 10:30 A.M.,
Per Order Entered 1/4/2022 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 2/10/2022 at 10:30 a.m., Per Order
Entered 1/4/2022 (XX) - td (1/4/2022)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lillian Sikanovski Dulac

Represented By
Michael Jones
Sara Tidd

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Erin P Moriarty

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 6C Calendar**

Thursday, January 13, 2022

Hearing Room

6C

10:30 AM

8:19-11414 Peter Woo Sik Kim and Sharon Soyun Kim

Chapter 7

#18.00 Hearing on Trustee's Final Report and Applications for Compensation

[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]

Docket 115

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Peter Woo Sik Kim

Represented By
David B Lally

Joint Debtor(s):

Sharon Soyun Kim

Represented By
David B Lally

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Lynda T Bui
Rika Kido

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 6C Calendar**

Thursday, January 13, 2022

Hearing Room

6C

10:30 AM

CONT...

Peter Woo Sik Kim and Sharon Soyun Kim

Chapter 7

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:19-11414 Peter Woo Sik Kim and Sharon Soyun Kim

Chapter 7

#19.00 Hearing RE: First and Final Application for Approval of Fees and Reimbursement of Expenses

[SHULMAN BASTIAN FRIEDMAN & BUI LLP, TRUSTEE'S ATTORNEY]

Docket 110

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Peter Woo Sik Kim

Represented By
David B Lally

Joint Debtor(s):

Sharon Soyun Kim

Represented By
David B Lally

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Lynda T Bui
Rika Kido

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#20.00 Hearing RE: Second Interim and Final Application of Couchot Law, LLP, Former Chapter 11 General Insolvency Counsel to Former Debtor-in-Possession Bruce Elieff, Morse Properties, LLC, and 4627 Camden, LLC, for Allowance of Compensation and Reimbursement of Expenses

[COUCHOT LAW, LLP, FORMER CHAPTER 11 GENERAL INSOLVENCY COUNSEL TO FORMER DEBTOR-IN-POSSESSION BRUCE ELIEFF, MORSE PROPERTIES, LLC, AND 4627 CAMDEN, LLC]

Docket 1251

***** VACATED *** REASON: CONTINUED TO 6/2/2022 AT 10:30 A.M.,
Per Orders Entered 1/5/2022 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/2/2022 at 10:30 a.m., Per Orders
Entered 1/5/2022 (XX) - td (1/5/2022)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#21.00 Hearing RE: Second Interim and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses of Hogan Lovells US LLP as Counsel to the Official Committee of Unsecured Creditors of Bruce Elieff

**[HOGAN LOVELLS US LLP, COUNSEL TO THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF BRUCE ELIEFF]**

Docket 1245

***** VACATED *** REASON: CONTINUED TO 6/2/2022 AT 10:30 A.M.,
Per Orders Entered 1/5/2022 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/2/2022 at 10:30 a.m., Per Orders
Entered 1/5/2022 (XX) - td (1/5/2022)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#22.00 Hearing RE: Second Interim and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses of Traverse, LLC as Financial Advisor to the Official Committee of Unsecured Creditors of Bruce Elieff

[TRAVERSE, LLC AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]

Docket 1084

***** VACATED *** REASON: CONTINUED TO 6/2/2022 AT 10:30 A.M.,
Per Orders Entered 1/5/2022 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/2/2022 at 10:30 a.m., Per Orders
Entered 1/5/2022 (XX) - td (1/5/2022)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#23.00 Hearing RE: Second and Final Fee Application of Force Ten Partners, LLC for Allowance and Payment of Fees and Reimbursement of Expenses Incurred

[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO BRUCE ELIEFF]

Docket 1249

***** VACATED *** REASON: CONTINUED TO 6/2/2022 AT 10:30 A.M.,
Per Orders Entered 1/5/2022 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/2/2022 at 10:30 a.m., Per Orders
Entered 1/5/2022 (XX) - td (1/5/2022)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

Adv#: 8:21-01094 Marshack v. Richards et al

#24.00 Hearing RE: Defendant Alicia Marie Richards' Motion to Strike Plaintiff Richard A. Marshack's First Amended Complaint

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Grant the Motion to Strike the First Amended Complaint solely on the basis that pleading was not timely filed in accordance with Federal Rules of Civil Procedure 15(a)(1).

Basis for Tentative Ruling:

1. There is no dispute that the First Amended Complaint ("FAC") was filed one day late. Accordingly, the Motion should be granted on this basis. *In re Kvassay*, 2014 WL 2446181 (9th Cir. BAP 2014).
2. The court does not agree with Debtor's other grounds for striking the FAC, i.e., on the basis that it is "scandalous and . . . filed with dilatory motive and prejudice to Defendants." Mot at p.3. The FAC actually removes certain defendants against whom Plaintiff cannot assert a claim -- Debtor's deceased brother and Debtor's minor child.
3. The court does not agree with Debtor's argument that the FAC is futile as no futility is apparent from the face of the FAC. The fact that a claim or allegation may later be the subject of a motion to dismiss or summary judgment is not, in and of itself, a basis for striking a complaint.
4. The Motion is granted without prejudice to Plaintiff seeking leave to amend the original complaint as required by Rule 15(a)(1).

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

Defendant(s):

Jonathan Steven Richards

Pro Se

Alicia Marie Remsen Richards

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Tinho Mang
D Edward Hays

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston
D Edward Hays
Tinho Mang

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

Adv#: 8:21-01094 Marshack v. Richards et al

#25.00 Hearing RE: Plaintiff's Motion for Leave to File First Amended Complaint

Docket 12

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Grant the Motion. Plaintiff is granted leave to file a Second Amended Complaint by or before January 28, 2022. Overrule Defendant's objections.

Basis for Tentative Ruling:

Fed. R. Civ. P. 15(a) ("Rule 15(a)"), made applicable herein by Fed. R. Bankr. P. 7015, states that a party may amend its pleading once as a matter of course within 21 days after serving it or after 21 days after service of a responsive pleading. Rule 15(a) also provides that "[i]n all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). The court may decline to grant such leave, though, where there is "any apparent or declared reason" for doing so, including undue delay, undue prejudice to the opposing party or futility of the amendment. *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222, 226 (1962); see also *Lockman Found. v. Evangelical All. Mission*, 930 F.2d 764, 772 (9th Cir. 1991).

Leave to amend a complaint or claim is generally within the discretion of the bankruptcy court. *Mende v. Dun & Bradstreet, Inc.*, 670 F.2d 129 (9th Cir. 1982). The Ninth Circuit applies this rule with "extreme liberality." *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1482 (9th Cir. 1997). In exercising its discretion, a bankruptcy court "must be guided by the underlying purpose of

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

Rule 15 to facilitate decision on the merits, rather than on the pleadings or technicalities." *In re Magno*, 216 B.R. 34 (9th Cir. BAP 1997). A bankruptcy court considers the following factors in determining whether a motion to amend should be granted: (1) undue delay; (2) bad faith; (3) futility of amendment; and (4) prejudice to the opposing party. *Hurn v. Retirement Fund Trust of Plumbing, Etc.*, 648 F.2d 1252, 1254 (9th Cir. 1981).

1. There was no evidence of bad faith motivation

In this case, there was no bad faith motivation by the Plaintiff. Plaintiff filed the Complaint against four named defendants, all of whom were identified in the documents describing the Remsen Family Trust that were provided to Plaintiff. Mot., 4:6-8. The FAC dismisses Greg Remsen, a deceased defendant, and K.M.R., Defendant's minor daughter, from the proceeding because they have no legal capacity to serve as a trustee to the Remsen Family Trust. Moreover, Defendant provides no evidence of bad faith. Defendant simply argues that the following language was added to the FAC in bad faith:

The Trust, and the powers of Debtor as trustee or co-trustee of the Trust are property of the bankruptcy Estate subject to the administration of Plaintiff pursuant to, and subject to the limitations of, 11 U.S.C. § 541(b)(1).

FAC., ¶16. She contends that the above statement is a new theory filed in bad faith to cause undue delay in the litigation. First, there is no applicable law or rule that would preclude the advancement of a different claim, or even an additional claim for relief in this instance. As noted by Plaintiff, the added language is essentially a restatement of the law and an allegation that the Trust is property of the estate as a result of such law. Defendant is free to deny this allegation and defend it on the merits, but the mere inclusion of the statement is not bad faith. she further argues that the subject trust is irrevocable and, as such, is not property of the estate. While it is true that a valid irrevocable trust is not property of the estate, the court a) has not been provided with a copy of the trust, and b) cannot make a finding at this pleading stage as to its validity. Granting the motion for leave to amend with the additional language does not preclude Defendant from moving for

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

dismissal or summary judgment at a later date. Finally, the one-day delay in filing a timely amended complaint does not provide a basis for a finding of bad faith.

2. There is no undue delay

The FAC was filed one day after the period during which amendment was allowed as a matter of right. See Hays Decl., ¶4. Additionally, Trustee sought a stipulation from Defendant for leave to permit the FAC deemed filed before the filing this Motion. *Id.*, ¶5; Mot. 6. The Motion was 16 days later

3. There is no prejudice to Defendant

The FAC does not cause prejudice to Defendant. Defendant does not explain how the dismissal of the other two defendants will cause prejudice to Defendant. In fact, Defendant demanded that defendants Greg Remsen and K.M.R. be dismissed from this action. See Hays Decl., ¶5. Furthermore, as discussed above, the statement contained in paragraph 16 of the FAC regarding the character of the Trust and Defendant's powers in the Trust are merely statements of the law, and the extent to which the law applies are subject to the court's determination in future proceedings.

4. Amendments are not futile

"[L]eave to amend should be denied as futile 'only if no set of facts can be proved under the amendment to the pleadings that would constitute a valid and sufficient claim or defense.'" *Barahona v. Union Pacific Railroad*, 881 F.3d 1122, 1134 (9th Cir. 2018) (quoting *Miller v. Rykoff-Sexton, Inc.*, 845 F.2d 209, 214 (9th Cir. 1988)).

The amendments of the FAC are not futile. Defendant essentially argues that Plaintiff's claims will eventually fail, and therefore amendment is futile. However, that conclusory argument does not meet the standard for futility. On the contrary, if Plaintiff's allegations are taken as true, Plaintiff would prevail. Compelling Plaintiff to continue to seek a judgment against individuals legally incapable of acting as trustees of Remsen Family Trust would be futile.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

5. A motion under Fed. R. Civ. P. 21 is not required

"...On a motion or on its own, the court may at any time, on just terms, add or drop a party..." Fed. R. Civ. P. 21 (made applicable to adversary proceedings by Fed. R. Bankr. P. 7021). The difference between Rule 15 and Rule 21 is "largely academic because the same test applies to [a] request under either Rule." *Heilman v. Cook*, 2016 U.S. Dist. LEXIS 184473 at *5 (S.D. Cal. October 31, 2016) (unpublished). Rule 21 also does not supersede or override Rule 15, and parties may be dismissed or added pursuant to Rule 15. See *In re Cathode Ray Tube Antitrust Litigation*, 2014 U.S. Dist. LEXIS 47972 at *72-77 (N.D. Cal. March 28, 2014) ("...it is not evident to the Court that Rule 21 is more specific than Rule 15, such that it would override Rule 15, since Rule 21 refers generally to adding and dropping parties by motion (particularly in the context of joinder), while Rule 15(a) provides specific guidelines for parties seeking to amend pleadings."). "[T]he liberal standard of Rule 15 also applies to Rule 21 motions." *De Malherbe v. International Union of Elevator Constructors*, 438 F.Supp.1121, 1128 (N.D. Cal. 1977). Since Fed. R. Civ. P. 21 does not overrule Fed. R. Civ. P. 15, a motion under Fed. R. Civ. P. 21 is not required.

Party Information

Debtor(s):

Alicia Marie Richards	Pro Se
-----------------------	--------

Defendant(s):

Jonathan Steven Richards	Pro Se
Alicia Marie Remsen Richards	Pro Se

Plaintiff(s):

Richard A Marshack	Represented By Tinho Mang D Edward Hays
--------------------	---

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston
D Edward Hays
Tinho Mang

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#26.00 CON'TD Hearing RE: Motion by Debtor to Dismiss Case Pursuant to 11 U.S.C. Section 1112(b); and Request for Judgment for Quarterly Fees Due and Payable to the U.S. Trustee at the Time of Hearing

FR: 10-14-21; 12-9-21; 12-16-21

Docket 128

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 14, 2021

Continue the hearing on this motion to December 9, 2021 at 10:30 a.m. (XX)

Note: If all parties accept the tentative ruling, appearances at this hearing are not required.

December 16, 2021

No tentative ruling. Debtor to advise the court re the outcome of the relief from forfeiture hearing in state court.

January 13, 2022

Deny motion as moot. See tentative ruling for #27 on today's calendar.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warsaw

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#27.00 Hearing RE: BCORE Retail Brookhurst Adams LLC's Motion to Dismiss Chapter 11 Bankruptcy or, Alternatively for Full Relief from the Automatic Stay

Docket 191

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Grant the Motion to dismiss the case.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#28.00 CONT'D Hearing RE: Creditor BCORE Retail Brookhurst Adams LLC's Motion to Compel Rejection of Terminated Nonresidential Lease

FR: 6-17-21; 8-19-21; 9-30-21; 11-9-21; 12-9-21; 12-16-21

Docket 72

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Grant Motion for the reasons stated and the legal authority presented in the Motion and Reply

August 19, 2021

Continue this hearing to September 30, 2021 at 10:30 a.m. (XX)

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

Note: Appearances at this hearing are not required.

December 16, 2021

No tentative ruling. Disposition will depend upon outcome of #27 on today's calendar.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

**CONT... Mehr Group of Companies Holding Inc.
January 13, 2022**

Chapter 11

Deny motion as moot. See tentative ruling for #27 on today's calendar.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#29.00 CON'TD Hearing RE: Debtor in Possession's Motion Authorizing the Assumption of Commercial Lease

FR: 6-17-21; 8-19-21; 9-30-21; 11-9-21; 12-9-21; 12-16-21

Docket 78

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Deny motion if the court grants lessor's motion to compel rejection [See # 21 on today's calendar]

August 19, 2021

Continue this hearing to September 30, 2021 at 10:30 a.m. (XX)

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

Note: Appearances at this hearing are not required.

December 16, 2021

No tentative ruling. Disposition will depend upon outcome of #27 on today's calendar.

January 13, 2022

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Deny motion as moot. See tentative ruling for #27 on today's calendar.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#30.00 CON'TD Hearing RE: Debtor's Motion for Order Disallowing Claim #3 as Filed by BCORE Brookhurst Adams LLC

FR: 7-15-21; 8-19-21; 9-30-21; 11-9-21; 12-9-21; 12-16-21

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Continue hearing to August 19, 2021 at 10:30 a.m. to allow Debtor to correct defective service to Claimant. (XX)

Basis for Tentative Ruling:

The Motion was not served at the exact address indicated on the proof of claim as required by FRBP 3007. The address on the proof of claim is "BCORE Retail Brookhurst Adams LLC c/o Blackmar, Principe & Schmelter, APC, 600 B Street, Suite 2250, San Diego, CA 92101." The Motion was served at the correct address but not in care of BP&S.

Tentative ruling for 8/19/21 hearing (if unopposed):

Disallow the sum of \$137,954 (\$57,954 + \$80,000) and allow the claim in the amount of \$155,762.01 (\$293,716.01- \$137,954).

Note: If Debtor accepts the tentative ruling, appearance at this hearing is not required and Debtor shall re-serve the Motion.

August 19, 2021

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Continue this hearing to September 30, 2021 at 10:30 a.m. (XX)

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

Note: Appearances at this hearing are not required.

December 16, 2021

No tentative ruling. Disposition will depend upon outcome of #27 on today's calendar.

January 13, 2022

Deny motion as moot. See tentative ruling for #27 on today's calendar.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#31.00 CON'TD STATUS CONFERENCE Hearing on Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee; and (3) Requiring Subchapter V Trustee to Appear at the Status Conference

FR: 5-11-21; 6-17-21; 8-19-21; 9-30-21; 11-9-21; 12-9-21; 12-16-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

No tentative ruling; disposition will depend on outcome of other matters on today's calendar.

June 17, 2021

No tentative ruling; disposition will depend on outcome of other matters on today's calendar.

August 19, 2021

Continue this hearing to September 30, 2021 at 10:30 a.m. An updated Status Report need only be filed by September 16, 2021 if a Rule 9019 motion to approve compromise has not been filed by such date. (XX)

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

Note: Appearances at this hearing are not required.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

**CONT... Mehr Group of Companies Holding Inc.
December 16, 2021**

Chapter 11

No tentative ruling. Disposition will depend upon outcome of #27 on today's calendar.

January 13, 2022

Take matter off calendar if case is dismissed.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-11858 Chae Ran Song

Chapter 7

Adv#: 8:21-01099 NuVision Federal Credit Union v. Song

#32.00 Hearing RE: Plaintiff's Motion for Default Judgment

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Continue the Motion to February 10, 2022 at 10:30 a.m., same date/time as hearing on Defendant's motion to set aside entry of default.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Chae Ran Song	Pro Se
---------------	--------

Defendant(s):

Chae Ran Song	Pro Se
---------------	--------

Plaintiff(s):

NuVision Federal Credit Union	Represented By Alana B Anaya
-------------------------------	---------------------------------

Trustee(s):

Karen S Naylor (TR)	Pro Se
---------------------	--------

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:21-12493 Donald Chae

Chapter 11

#33.00 CONT'D Hearing RE: Debtor-in-Possession's Motion for Order Approving and Authorizing Debtor to Enter Into Plan Support Agreement Pursuant to 11 U.S.C. Section 363(b)

FR: 12-16-21

Docket 64

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

Unless Debtor and the Creditors' Committee are able to negotiate a resolution the court is inclined to grant the Motion.

Basis for Tentative Ruling:

The court agrees with Debtor that the Committee's proposal essentially guts the agreement and unreasonably undercuts the finality of the same. The court is hopeful that the parties will be able to reach a compromise prior to the hearing.

Party Information

Debtor(s):

Donald Chae

Represented By
Robert S Marticello
Timothy W Evanston

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

10:30 AM

8:22-10014 Besthost Inn, LLC

Chapter 11

#33.10 Hearing RE: Order to Appear and Show Cause Why Bankruptcy Case Should
Not Be Dismissed (OSC Issued 1/10/2022)

Docket 17

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

*This matter remains under review by the court. A tentative ruling may be
posted at any time prior to the hearing.*

Party Information

Debtor(s):

Besthost Inn, LLC

Represented By
Nicholas W Gebelt

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, January 13, 2022

Hearing Room

5A

2:00 PM

8:21-11710 Jamie Lynn Gallian

Chapter 7

Adv#: 8:21-01095 The Huntington Beach Gables Homeowners Association v. Gallian et al

#34.00 Hearing RE: Defendant Randall L. Nickel's Motion to Dismiss For Lack of Jurisdiction, For Removal/Remand to State Court; and Forum Non Conveniens

Docket 8

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 13, 2022

This matter remains under review by the court. A tentative ruling may be posted at any time prior to the hearing.

Party Information

Debtor(s):

Jamie Lynn Gallian

Pro Se

Defendant(s):

Jamie L Gallian

Pro Se

Randall L Nickel

Represented By
Mark A Mellor

Plaintiff(s):

The Huntington Beach Gables

Represented By
Michael D Poole

Trustee(s):

Jeffrey I Golden (TR)

Pro Se